

United States District Court, Northern District of Illinois

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| Name of Assigned Judge or Magistrate Judge | Milton I. Shadur | Sitting Judge if Other than Assigned Judge | |
| CASE NUMBER | 00 C 4575 | DATE | 10/23/2000 |
| CASE TITLE | Anne Lucas vs. CD-Com Systems Chicago, Inc. | | |

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Order. Affirmative Defense 1 is stricken from Defendant's Answer and Affirmative Defenses.

- (11) ☒ [For further detail see order attached to the original minute order.]

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|---|---|--|---------------------------|-------------------------|
| <input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge. | SN courtroom deputy's initials | ED-7 FILED FOR DOCKETING 00 OCT 24 PM 1:29 | number of notices | Document Number 1 |
| | | | OCT 23 2000 | |
| | | | date docketed | |
| | | | docketing/deputy initials | |
| | | | 10/24/2000 | |
| date mailed notice | SN | mailing deputy initials | | |

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANNE J. LUCAS,)
)
Plaintiff,)
)
v.) No. 00 C 4575
)
CD-COM SYSTEMS CHICAGO, INC.,)
)
Defendant.¹)

MEMORANDUM ORDER

CD-COM Systems Chicago, Inc. ("CD-COM") has filed its Answer and Affirmative Defenses to the Amended Complaint ("AC") brought against it by its ex-employee Anne Lucas ("Lucas"). This memorandum order is issued sua sponte to address some obvious problems posed by that responsive pleading.

RECORDED
OCT. 25 2000

To begin with, Answer ¶3 concludes by saying:

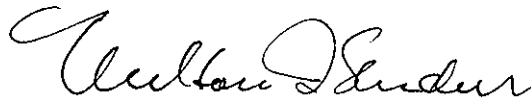
The remaining allegations contained in paragraph 3 state a legal conclusion which requires no response.

That assertion is simply no excuse for failing to conform to the requirement of Fed. R. Civ. P. ("Rule") 8(b) that every allegation must be responded to--no less an authority than the Supreme Court teaches that legal conclusions are properly an integral part of federal pleading (see, e.g., Neitzke v. Williams, 490 U.S. 319, 325 (1989); Denton v. Hernandez, 504 U.S. 25, 31 (1992); and relatedly, see the opinion of our Court of

¹ Because this Court will be away during the two-week period from October 10 through October 20, this has been dictated on October 7 for transcription during this Court's absence and entry on October 23 or shortly thereafter.

Appeals in Jackson v. Marion County, 66 F.3d 151, 153-54 (7th Cir. 1995)). Moreover, any such nonresponse is totally inconsistent with CD-COM's outright admission of the allegations in AC ¶¶4 and 5. Accordingly, the sentence just quoted from Answer ¶3 is stricken.

Next, Affirmative Defense ("AD") 1 is a direct contradiction of Lucas' allegation in Complaint ¶14. That being true, AD 1 is inconsistent with the concept of an AD as contemplated by Rule 8(c) and the relevant caselaw, which require a defendant to treat plaintiff's allegations as admitted for purposes of the AD but then set out some other basis for defendant's nonliability (or perhaps lesser liability, as in the case of comparative negligence). Accordingly AD 1 is also stricken.



Milton I. Shadur
Senior United States District Judge

Date: October 23, 2000